THE HON'BLE SRI JUSTICE J. CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE P. SWAROOP REDDY

W.A.No. 967 of 2006
Dated:30-3-2007

Between:
APSRTC, represented by its
Managing Director,
Musheerabad, Hyderabad
And another

..Appellants

and

Dasarath Goud
and another.

…Respondent

JC & PSR, JJ.

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W.A.No. 967 of 2006

Judgment

(Per P. Swaroop Reddy, J.)

This appeal is filed against the judgment of a learned single Judge in W.P.No. 23010 of 2005, which, in turn, was filed against the order of the Labour Court-II, Hyderabad in I.D.No. 1 of 2003, in which a direction was given to the present appellants – APSRTC to reinstate the respondent-workman into service with continuity of service, 80% back-wages and all other attendant benefits.

2. Relevant facts are as follows: The respondent-workman was appointed as a temporary conductor in the appellant-APSRTC on 26.8.1972; his services were later regularized; he was punished several times in the cases of cash and ticket irregularities and mis-

conduct; he was promoted as ADC on 23.6.1982; he absented himself from duty from 19.4.2002 about which a report was sent, on the basis of which a charge sheet was issued to the respondent-workman on 28.8.2002 with the following charge:

> "*For having unauthorizedly absented for your duties as from 19.4.2002 to till date without prior permission or sanction of leave from the competent authority, due to which much inconvenience caused in Earning Section, which constitutes misconduct in terms of Reg. 28 (xxvii) of APSRTC Employees (Conduct) Regulations, 1963.*"

3. After the respondent-workman submitted his explanation a detailed enquiry was conducted into the case. After conducting the detailed enquiry by giving reasonable opportunity, the Enquiry Officer submitted his report on 25.9.2002. On the basis of the enquiry report, it was concluded that the respondent-workman was irregular to his duties causing dislocation of operation of services, in addition to loss of revenue to appellant-APSRTC and punishment of removal from service was felt fit and proper. A show-cause notice dated:20-11-2002 was issued, to which the respondent-workman did not submit any explanation to revise the proposed punishment of removal. Consequently final orders were passed on 13.12.2002 removing the respondent-workman from service. The respondent-workman without filing any appeal or review approached the second respondent by filing I.D.No. 1 of 2003, which passed an Award on 19.5.2005 directing the appellant-APSRTC to reinstate the respondent-workman into service with all consequential benefits.

4. Challenging the same APSRTC, the present appellant, filed W.P.No. 23010 of 2005 and a learned Single Judge of this court dismissed the writ petition. As against the same, the present appeal is filed.

5. In this appeal though the entire findings about reinstatement of the respondent-workman with 80% back-wages and other attendant benefits are challenged, predominantly the issue of payment of 80% back-wages is seriously contested.

6. The second respondent, as well as the learned Single Judge have consistently held that the removal of the respondent-workman was not in order and that he was entitled to 80% back-wages. We see no grounds to interfere with the findings, at least, with regard to the order of reinstatement. As far as back-wages are concerned, as respondent-workman did not admittedly work during the relevant period and there were laches on his part also, we feel that granting of 60% back-wages instead of 80% would be appropriate.

7. In the result, with the above modification with regard to the percentage of back-wages to be awarded to the respondent-workman, the appeal is allowed in part. No costs.

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J.CHELAMESWAR, J

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BVS

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P. SWRAOOP REDDY, J.